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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,596	02/27/2004	Joseph Villamar	23-0699	9064
40158	7590	01/18/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,596

Applicant(s)

VILLAMAR, JOSEPH

Examiner

Anita M. King

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the third office action for application number 10/789,596, Wrist Support Device, filed on February 27, 2004.

***Cancellation of Claims***

Claim 2 has been canceled per applicant's request in correspondence filed August 4, 2004.

***Claim Rejections - 35 USC § 112***

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the computer" in line 5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 5, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,340,067 to Martin et al., hereinafter, Martin. Martin discloses a wrist support device (10) for supporting a wrist (23) of a user when the user is using a computer mouse (12), the wrist supporting device comprising: a base member (11) adapted for being selectively coupled to the computer mouse; a cushion member (18) being coupled to the base member such that the cushion member extends upwardly

Art Unit: 3632

from the base member, the cushion member being adapted for supporting the wrist of the user to reduce the stress on the wrist of the user when a hand (13) of the user is positioned on the computer mouse; the base member comprising a receiving aperture (@33) extending through the base member, the receiving aperture being adapted for receiving the computer mouse such that the base member extends around a periphery of a lower portion of the computer mouse, the base member being adapted for frictionally engaging the computer mouse to selectively couple the base member to the computer mouse, the receiving aperture being adapted for permitting the computer mouse to function when the base member is coupled to the computer mouse; the cushion member being arcuate such that the cushion member extends between opposing sides edges of the base member, the cushion member being adapted for supporting the wrist of the user from a variety of angles of the wrist with respect to the computer mouse; the cushion member being positioned adjacent a rear edge of the base member, the cushion member being adapted for being positioned in spaced relationship from a rear of the computer mouse to allow a heel of the hand of the user to be positioned between the computer mouse and the cushion member for greater comfort when the user is using the computer mouse; and the base member substantially encircling (the term "substantially" is interpreted broadly and would imply that something less than the exact is required) the periphery of the computer mouse when the computer mouse is positioned in the receiving aperture.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3, 4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Rice. Martin further discloses that the bottom surface (20) of the base member enables the device to glide easily on the user's desk or mouse pad. Martin discloses the claimed invention except for the limitations of a base layer being coupled to the bottom surface, the base layer being a low friction material and the cushion member comprising a compressible material. Rice teaches that it is known in the wrist support device art to have a device comprising a base member (224 or 262), a cushion member (226) being coupled to the base member, a receiving aperture (266), a base layer (230) coupled to a bottom surface of the base member and comprising a lower friction material, and the cushion member being a compressible material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the wrist support device in Martin to have included the base layer as taught by Rice for the purpose of providing an alternative sliding means that is detachable from the base member and being of a low friction for the purpose of allowing the device to glide easily along the user's desk or to allow for a non-skid bottom surface when needed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cushion member in Martin to have included the compressible material as taught by Rice for the purpose of providing comfort for the user.

### ***Response to Arguments***

Applicant's arguments filed November 9, 2004 have been fully considered but they are not persuasive. The rejections stand.

In regards to applicant's arguments that Martin does not disclose, teach or suggest a receiving aperture extending around the periphery of the computer mouse and extending through the base member, the aperture in Martin does extend around the periphery of the computer mouse, however, the aperture in Martin does not extend around the entire periphery of the computer mouse. The aperture in Martin does extend through the base member, the aperture extends through the distal end and bottom of the device in Martin, however, the aperture is open ended rather than closed.

In regards to applicant's argument that the Rice reference does not teach the base member extending around the computer mouse and frictionally engaging the periphery of the lower portion of the computer mouse, Martin teaches that the computer mouse, which is not cited as a positive limitation of the claimed invention, is frictionally engaged by the fingers (14) which define part of the receiving aperture; the Rice reference is a secondary reference used to teach the base layer material and the cushion member, Rice need not teach the limitations disclosed by Martin.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


Art Unit: 3632

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anita M. King  
Primary Examiner  
Art Unit 3632

January 12, 2005